

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA

BABYAGE.COM, INC.,

Plaintiff-Counterclaim Defendant

v.

LEACHCO, INC.,

Defendant-Counterclaim Plaintiff/
Third Party Plaintiff

and

JAMIE S. LEACH,

Counterclaim Plaintiff/
Third Party Plaintiff

v.

JOHN M. KIEFER, JR.,

Third Party Defendant/
Counterclaim Plaintiff

CIVIL ACTION NO. 3:07-CV-01600-ARC

Judge A. Richard Caputo

Filed Electronically

**PLAINTIFF'S MOTION TO VOLUNTARILY DISMISS
COUNT II OF ITS AMENDED COMPLAINT WITHOUT PREJUDICE**

Plaintiff, BabyAge.com, Inc. ("BabyAge"), by and through its attorney, Andrew J. Katsock, III, Esquire, hereby moves this Honorable Court for an Order dismissing Count II of BabyAge's Amended Complaint without prejudice pursuant to F.R.C.P. 41(a), and in support of its Motion, BabyAge avers the following:

1. On March 4, 2008, BabyAge filed a Motion to Amend Complaint against the Defendant, Leachco, Inc. ("Leachco"), for the purpose of including counts of anti-trust violations with respect to Leachco's anti-competitive behavior.
2. Leachco's counsel concurred with BabyAge's Motion to Amend Complaint.
3. On March 17, 2008, the Court entered an Order granting BabyAge's Motion to

Amend Complaint and BabyAge's Amended Complaint was filed by the Clerk forthwith.

4. On March 26, 2008, Leachco filed a Motion to Dismiss Count II of BabyAge's Amended Complaint concerning BabyAge's anti-trust claims against Leachco.

5. On March 31, 2008, Leachco filed a Brief in Support of its Motion to Dismiss Count II of BabyAge's Amended Complaint concerning BabyAge's anti-trust claims against Leachco.

6. BabyAge wishes to voluntarily dismiss Count II of its Amended Complaint concerning BabyAge's anti-trust claims against Leachco without prejudice.

7. Defendant's counsel, Gary Peterson, Esquire, has concurred in this Motion.

WHEREFORE, the Plaintiff, BabyAge.com, Inc., respectfully requests that this Honorable Court enter an Order granting Plaintiff's Motion to Voluntarily Dismiss Count II of its Amended Complaint Without Prejudice and dismissing Count II of Plaintiff's Amended Complaint concerning Plaintiff's anti-trust claims against Defendant, Leachco, Inc., without prejudice.

Respectfully submitted,

Date: April 10, 2008

/s/ Andrew J. Katsock, III, Esquire
ANDREW J. KATSOCK, III, ESQUIRE
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Attorney for Plaintiff,
BabyAge.com, Inc.

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ORDER

AND NOW, this _____ day of _____, 2008, upon consideration of Plaintiff's Motion to Voluntarily Dismiss Count II of its Amended Complaint Without Prejudice filed in the above-captioned matter, and given that Defendant's counsel, Gary Peterson, Esquire, has concurred in said Motion, it is hereby,

ORDERED AND DECREED that Plaintiff's Motion to Voluntarily Dismiss Count II of its Amended Complaint Without Prejudice is granted. Accordingly, Count II of Plaintiff's Amended Complaint concerning Plaintiff's anti-trust claims against Defendant, Leachco, Inc., is hereby dismissed without prejudice.

BY THE COURT:

A. Richard Caputo
United States District Judge